

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NATIONAL STEEL CAR LIMITED,)	
)	
Plaintiff/Counterclaim-)	
Defendant,)	
)	
v.)	C.A. No. 24-594-JLH-CJB
)	
FREIGHTCAR AMERICA, INC.,)	
FREIGHTCAR NORTH AMERICA, LLC,)	
JAC OPERATIONS, INC., AND)	
FCA-FASEMEX, LLC,)	
)	
Defendant/Counterclaim-)	
Plaintiffs.)	

JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Court’s Scheduling Order (D.I. 38), Plaintiff National Steel Car Limited (“NSC”) and Defendants FreightCar America, Inc., FreightCar North America, LLC, JAC Operations, Inc., and FCA-FASEMEX, LLC (collectively, “FreightCar America”) hereby provide their joint claim construction chart.

Below is a chart of the exhibits attached hereto:

Exhibit A	U.S. Patent No. 8,132,515
Exhibit B	U.S. Patent No. 8,166,892
Exhibit C	’515 Patent File History excerpts
Exhibit D	’892 Patent File History excerpt
Exhibit E	U.S. Patent No. 4,348,962 to Smith
Exhibit F	U.S. Patent No. 4,800,820 to Tomaka

The parties have agreed to the following constructions:

Claim Term	Construction
<p>“said second region of said sidewall extending downwardly or said first top chord” (’892 Patent, claim 2)</p>	<p>said second region of said sidewall extending downwardly of said first top chord.</p>
<p>“said sidewall stiffener having web continuity between said first and second portions thereof” (’892 Patent claims 1, 2; ’515 Patent claims 40)</p> <p>“said stiffener having vertical web continuity through said transition portion” (’892 Patent claim 4; ’515 Patent claims 42)</p>	<p>Plain and ordinary meaning, i.e., said [sidewall] stiffener having substantial coplanar alignment of the first and second portions through a transition portion to resist shear force</p>
<p>“mate” (’892 Patent claims 10, 13, and 14; ’515 Patent claim 18)</p>	<p>Plain and ordinary meaning, i.e., directly or indirectly connected to</p>

The parties dispute the construction of the following terms:¹

No.	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
1	<p>“elephant ears”</p> <p>(’892 Patent, claim 2; ’515 Patent, claims 7, 20, 24, 32)</p> <p>and “shear webs ears”</p> <p>(’515 Patent, claim 18)</p>	<p>large, substantially triangular planar plates.</p>	<p>’892 Patent at 14:27-67.</p> <p>November 30, 2010 Office Action (NSC000960-68).</p> <p>February 28, 2011 Response to Office Action (NSC000980-96) and the documents cited therein.</p> <p>The prior art cited on the face of the ’892 and ’515 Patents, including as shown at NSC000980-996; NSC001105-80.</p> <p>Defendants’ intrinsic evidence.</p>	<p>substantially triangular planar plates that extend substantially the entire length and height of the space between the shear plate and the end slope sheet</p>	<p>’515 patent, 14:61-15:5, Figs. 1-3c.</p> <p>’515 File History, June 16, 2010, Specification (NSC000883-911)</p> <p>’515 File History, Feb. 28, 2011, Applicant Arguments (NSC000980-96)</p> <p>U.S. 4,348,962 to Smith.</p> <p>U.S. 4,800,820 to Tomaka.</p> <p>Plaintiff’s intrinsic evidence.</p>

¹ Citations to the ’515 Patent or ’892 Patent or their file histories include corresponding citations to the other patent or file history. Citations to text include corresponding citations to figures, and vice versa.

No.	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
2	"sloped side sheet" ('892 Patent, claims 6, 7; '515 Patent, claim 43)	Plain and ordinary meaning, i.e., a sheet extending in a longitudinal direction with respect to a side of the hopper and which forms a sloped surface	Element 50 in Fig. 3b. '515 Patent at 15:39-16:5. Defendants' intrinsic evidence.	sloped portion of the side wall	'515 patent at Abstract, 15:6-29, 15:63-16:5, 16:34-53, 16:63-17:14, Figs. 1-3c. Plaintiff's intrinsic evidence.

3	<p><u>NSC Proposed Claim Term</u></p> <p>“shear plate extending lengthwise along said draft sill and cross-wise from side to side of said hopper car”</p> <p>(’515 Patent, claims 1, 7, 18, 20)</p> <p>“shear plate extending along said draft sill and cross-wise from side to side of said hopper car”</p> <p>(’515 Patent, claim 24)</p> <p>“shear plate extending longitudinally along said draft sill and cross-wise from side to side of said hopper car”</p> <p>(’515 Patent, claim 32)</p> <p><u>FreightCar America Proposed Claim Term</u></p>	<p><u>NSC Proposed Construction for NSC Term</u></p> <p>Plain and ordinary meaning, i.e., shear plate having a length and width in a horizontal plane and extending both parallel and perpendicular to the longitudinal direction of the draft sill</p> <p><u>NSC Proposed Construction for Defendants’ Term</u></p> <p>NSC disagrees that only a portion of the claim term should be construed</p>	<p>Element 76 in Figs. 1, 3a, 3c.</p> <p>’515 Patent at 14:4-20.</p> <p>Defendants’ intrinsic evidence.</p>	<p><u>FreightCar America Proposed Construction for NSC Term</u></p> <p>shear plate extending [lengthwise along said draft sill / along said draft sill / longitudinally along said draft sill] and across the entire lateral width of said hopper car</p> <p><u>FreightCar America Proposed Construction for its Term</u></p> <p>shear plate extending . . . across the entire lateral width of said hopper car</p>	<p>’515 patent at 8:38-57, 12:55-13:24, 14:4-20.</p> <p>Plaintiff’s intrinsic evidence.</p>
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No.	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
	<p>“shear plate extending... cross-wise from side to side of said hopper car”</p> <p>(’515 Patent, 1, 7, 18, 20, 24, 32)</p>				
4	<p><u>NSC Proposed Claim Term</u></p> <p>“flat bar”</p> <p>(’892 Patent, claim 15)</p> <p><u>FreightCar America Proposed Claim Term</u></p> <p>“made of flat bar”</p> <p>(’892 Patent, claim 15)</p>	<p><u>NSC Proposed Construction for NSC Term</u></p> <p>Plain and ordinary meaning, i.e., a flat piece of steel with a largely rectangular cross section</p> <p><u>NSC Proposed Construction for Defendants’ Term</u></p> <p>NSC disagrees that “made of” requires construction</p>	<p>Elements 332 and 334 in Figs. 7a, 7b.</p> <p>’892 Patent at 21:30-33.</p> <p>Defendants’ intrinsic evidence.</p>	<p><u>FreightCar America Proposed Construction for NSC Term</u></p> <p>[made of] a flat piece of steel with a largely rectangular cross section, whether or not bent</p> <p><u>FreightCar America Proposed Construction for its Term</u></p> <p>made of a flat piece of steel with a largely rectangular cross section, whether or not bent</p>	<p>’515 patent at 21:34-37, Figs. 7a, 7b.</p> <p>’892 File History, Nov. 18, 2011 claim amendments (NSC000812-19).</p> <p>Plaintiff’s intrinsic evidence.</p>

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